IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 7629 of 2005

Between:

P. Pullaiah, S/o Yogaiah, R/o Bodhanampadu Post, Kurichedu Mandal, Prakasam District.

..... PETITIONER

AND

1 The Director of Mines and Geology, B.R.K.R. Bhavan, Hyderabad.
2 The Deputy Director of Mines and Geology, Guntur, Guntur District.
3 The Assistant Director of Mines and Geology, Guntur, Guntur District.
4 The Assistant Director of Mines and Geology, Markapur, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring action of the 4th respondent in not conducting survey of the area in Sy.No. 787 of Chandaluru Village, Darsi Mandal, Prakasam District and not complying with the directions issued by the 1st respondent in Memo No. 6476/R3 (2)/2004, dated 4-9-2004, as well as the order of the 2nd respondent made in Memo No. 3136/Q2 (2)/2003, dated 8-9-2004, as arbitrary, illegal, contrary to the A.P. Minor Mineral Concession Rules, 1966 and violative of Article 19 (1) (g) of the Constitution of India and consequently direct the 1st respondent to comply with the said orders and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.C.V.R.RUDRA PRASAD

Counsel for the Respondent Nos.1 to 4: GP FOR MINES AND GEOLOGY

The Court made the following :

ORDER:

This writ petition has been filed by the petitioner-P.Pullaiah with a prayer to issue a writ, order or direction more particularly one in the nature of *Writ of Mandamus* declaring the action of the

4th respondent in not conducting survey of the area in Sy.No.787 of Chandaluru Village, Darsi Mandal, Prakasam District and not complying with the directions issued by the first respondent in Memo No.6476/R3(2)/2004, dated 04.09.2004, as well as the order of the

second respondent made in Memo No.3136Q2(2)/2003, dated 08.09.2004, as arbitrary, illegal and contrary to the A.P. Minor Mineral Concession Rules, 1966 and violative of Article 19 (1) (g) of the Constitution of India.

The writ petitioner filed an application before the Assistant Director of Mines and Geology, Ongole, on 18.02.2003, for grant of quarry lease over an extent of 10 acres in Sy.No.787 of Chandaluru village, Darsi Mandal, Prakasam District, for a period of 10 years. The Deputy Director of Mines and Geology, Guntur-second respondent herein by an order dated 30.01.2004 rejected the application filed by the writ petitioner on the ground that the land applied for lease is overlapping with the existing leased area to an extent of Ac.4.20 cents. Challenging the order of the second respondent, the writ petitioner filed an appeal before the Director of Mines and Geology, B.R.K.R. Bhavan, Hyderabad-first respondent. Pending the appeal, the first respondent directed the Assistant Director of Mines and Geology, Markapur-fourth respondent to take up resurvey of the area along with Revenue Department and submit a report for disposal of the appeal. Pursuant to the orders of the first respondent, the fourth respondent fixed a date for conducting survey i.e., on 17.08.2004. It is the grievance of the writ petitioner that the Surveyor in the office of the fourth respondent without conducting any physical survey submitted a report to the first respondent. Therefore, this writ petition has been filed by him seeking a direction to the respondents to get the survey conducted by any Surveyor other than the Surveyor of the fourth respondent office.

Heard learned counsel for the petitioner and learned Government Pleader for Mines and Geology appearing on behalf of respondents 1 to 4.

It is no more in dispute that the appeal filed by the writ petitioner against the orders of the second respondent is pending before the first respondent. Pending the appeal, the first respondent directed the fourth respondent to take up resurvey of the area along with Revenue Department in the presence of the writ petitioner. There is some correspondence emanating from the office of the second respondent to implement the orders passed by the first respondent. It is the grievance of the writ petitioner that the surveyor in the office of the fourth respondent without conducting survey submitted a false report and therefore, a direction is to be given to the respondents to depute Surveyor from the office of the third respondent in the interests of justice. A fact to be borne in mind is that when the appeal filed by the writ petitioner is pending before the first respondent, it is for him to see that the area is surveyed by the Surveyor of the third respondent office. Since the appeal is pending before the first respondent, no further orders are required to be passed in this writ petition.

The writ petition is disposed of granting liberty to the writ petitioner to work out his remedies before the appellate authority. No order as to costs.

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B.SESHASAYANA REDDY, J

Dated: 01.07.2005

GJ

To

1 The Director of Mines and Geology, B.R.K.R. Bhavan, Hyderabad.
2 The Deputy Director of Mines and Geology, Guntur, Guntur District.
3 The Assistant Director of Mines and Geology, Guntur, Guntur District.
4 The Assistant Director of Mines and Geology, Markapur, Prakasam District.

5 Two C.Cs. to the Government Pleader for Mines and Geology, High Court of A.P., Hyderabad. (O.U.T.)

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